

### **REMARKS**

Applicants have carefully reviewed the Office Action mailed on April 29, 2008. Applicants respectfully traverse (and do not concede) all objections, rejections, adverse statements, and adverse assertions made by the Examiner. With this amendment, claims 1, 37, and 39 are amended. No new matter is added. Claims 1, 3, 7, 37, and 39-43 remain pending.

#### **Claim Rejections Under 35 U.S.C. §102**

Claims 1, 3, and 37 are rejected under 35 U.S.C. §102(b) as being anticipated by Smith in U.S. Patent No. 6,235,026. Applicants respectfully traverse this rejection. However, in the interest of furthering prosecution claim 1 is amended to recite:

a swivel having a first end and a second end, the first end being  
disposed within the sheath and being coupled to the distal end of the shaft

...

Claim 37 is similarly amended to recite that at least a portion of the swivel is disposed within the sheath. Smith does not appear to teach or suggest a swivel having a first end (or portion) that is disposed within a sheath. Consequently, Applicants respectfully submit that amended claims 1 and 37 are patentable over Smith. Because claim 3 depends from claim 1, it is also patentable for the same reasons as claim 1 and because it adds significant elements to distinguish it further from the art.

#### **Claim Rejections Under 35 U.S.C. §103**

Claim 7 is rejected under 35 U.S.C. §103(a) as being unpatentable over Smith in view of Fleury Jr. in U.S. Patent No. 4,326,530. For the reasons set forth above, Applicants respectfully submit that amended claim 1 is patentable over Smith because, for example, Smith does not appear to teach or suggest all the claim limitations. Fleury Jr. fails to overcome the deficiencies of Smith. Consequently, Applicants respectfully submit that amended claim 1 is patentable over the combination of Smith and Fleury Jr., to the extent that such a combination is even possible. Because claim 7 depends from claim 1, it is also patentable for the same reasons as claim 1 and because it adds significant elements to distinguish it further from the art.

Claims 39-41 and 43 are rejected under 35 U.S.C. §103(a) as being unpatentable over Smith in view of Swanson et al. in U.S. Patent Application Pub. No. US 2002/0151889. Applicants respectfully traverse this rejection. However, in the interest of furthering prosecution claim 39 is similarly amended to recite a swivel having a first end and a second end, the first end being disposed within the sheath and being coupled to the distal end of the shaft. For reasons similar to those set forth above in relation to claim 1, Applicants respectfully submit that this amendment distinguishes the claimed invention from Smith because, for example, Smith does not appear to teach or suggest all the claim limitations. Swanson et al. fails to overcome the deficiencies of Smith. Consequently, Applicants respectfully submit that amended claim 39 is patentable over the combination of Smith and Swanson et al., to the extent that such a combination is even possible. Because claims 40-41 and 43 depend from claim 39, they are also patentable for the same reasons as amended claim 39 and because they add significant elements to distinguish them further from the art.

Claim 42 is rejected under 35 U.S.C. §103(a) as being unpatentable over Smith in view of Swanson et al. as applied to claims 39-41 and 43 above, and further in view of Fleury Jr. For the reasons set forth above, Applicants respectfully submit that amended claim 39 is patentable over the combination of Smith and Swanson et al. Fleury Jr. fails to overcome the deficiencies of the cited art. Consequently, Applicants respectfully submit that amended claim 39 is patentable over the combination of Smith, Swanson et al., and Fleury Jr., to the extent that such a combination is even possible. Because claim 42 depends from claim 39, it is also patentable for the same reasons as claim 39 and because it adds significant elements to distinguish it further from the art.

**Conclusion**

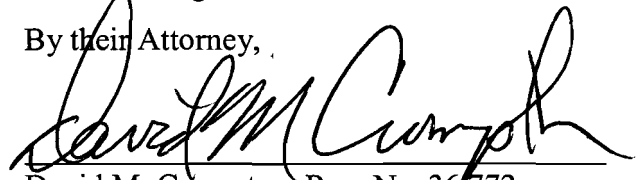
Reexamination and reconsideration are requested. It is respectfully submitted that all pending claims are now in condition for allowance. Issuance of a Notice of Allowance in due course is also respectfully requested. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

Respectfully submitted,

John A. Griego et al.

By their Attorney, .

Date: 7/2/08

A handwritten signature in black ink, appearing to read "David M. Crompton", written over a horizontal line.

David M. Crompton, Reg. No. 36,772  
CROMPTON, SEAGER & TUFTE, LLC  
1221 Nicollet Avenue, Suite 800  
Minneapolis, MN 55403-2420  
Telephone: (612) 677-9050  
Facsimile: (612) 359-9349